IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
Civil Application No.79 of 2004
in
Civil Revision Application St.No.22361 of 2004

Vitthal Nivruti Satale & Ors. .. Applicants

Vs.

Bhanudas Shidu Pawar & Ors. .. Respondents

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Shri S.G.Deshmukh for the applicants.

Shri Slunkhe for Shri Anilkumar K.Patil for respondent No.1.

Respondent No.3 served.

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CORAM : R.M.S.KHANDEPARKAR, J

DATED : 5th NOVEMBER, 2004.

P.C.

1. On oral request by the learned advocate for the applicants, the name of the respondent No.2 is allowed to be deleted from the records pertaining to the present Civil Application and the Civil Revision Application.

2. Heard the learned advocates for the parties. There is a delay of 92 days in filing the present

civil revision application. The ground disclosed is that instead of preferring civil revision application, the applicants had preferred the Writ Petition No.3929 of 2004 against the impugned order dated 16th February, 2004. The said writ petition was filed within limitation. According to the applicants, in the meantime, it was realised that the impugned order is revisable under Section 115 of the Code of Civil Procedure, and therefore, the present civil revision application has been filed.

3. Perusal of the civil application for condonation of delay discloses that there was a mistake on the part of the applicants in preferring the writ petition instead of civil revision application and that the applicants had made bonafide efforts in pursuing the remedy against the impugned order, and therefore, merely because the grievance was sought to be agitated in a different form, that would not be a justification to refuse the application for condonation of delay in filing the present civil revision application. In the facts and circumstances of the case, therefore, the delay of 92 days in filing the present civil revision application is hereby condoned. Accordingly, the civil application is allowed in terms of prayer clause (a).

4. Civil Revision Application, on being registered, shall be placed for final disposal at the admission stage on 9th December, 2004. Meanwhile, the proceedings in Special Civil Suit No.179 of 1996 pending in the Court of Civil Judge, Senior Division, Sangli, are stayed.

5. The Civil Application for condonation of delay accordingly stands disposed of.